UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/737,158 | 12/14/2000 | Mitch A. Williams | 10559-368001 | 8205 |

20985 7590 02/24/2004

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

| EXAMINER | |
|---|---|
| TRUONG, LECHI | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2126 | 7 |

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No | Applicant(s) | |
|---|---|---|---|
| | 09/737,158 | WILLIAMS, MITCH A. | |
| | Examiner | Art Unit | |
| | LeChi Truong | 2126 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *03 December 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## DETAILED ACTION

1. Claims 1- 29 are presented for examination, this office action is in response to the amendment filed 12/03/2003.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **1, 4, 5, 9-11, 23, 26, 27, 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over of Admitted Prior Art (APA) in view of Bullough (US. Patent 6,282,586 BI). 3.

3. **As to claim 1,** APA teaches the invention substantially as claimed including: an intermediate driver (an intermediate driver, page 3 lo page 4), memory (memory, page 4), a persistency (persistent mode, page 4, In 10-24), a device driver (a device driver, page 4). APA teaches the term controlling a persistent (the persistency status of a driver is selected as part of the driver installation procedure/ teaches the device driver makes itself available to the intermediate, page 4, In 10-21).

4. APA does not explicit teach the term "determining whether an intermediate driver is present". However, Bullough teaches determining whether an intermediate driver is present (detennining one of the plurality of alternative hardware devices having a corresponding real port driver, col 7,1 n 25-45/ if ~he port driver not already present, col4, In 63-65), port driver is an intermediate driver (col 3, In 30-56).

5. It would have been obvious to one of the ordinary skill in the art to combine the teaching APA and Bullough because Bullough's "determining one of the plurality of alternative hardware devices having a corresponding real port driver / if the port driver not already present" would provide the communication applications with port interfaces in consistent manner.

6. **As to claim 4**, APA teaches non-persistent (non-persistent mode, page 2, In 16 13).

7. **As to claim 5**, APA teaches device drive (the device driver, page 4), persistent (persistent, page 4), an intennediate driver (an intermediate driver, pagc3, In 10-23), memory (memory, page 4).

8. **As to claim 9,** APA teaches an n network- interface card (network-interface card, page 3, page 4), an intermediate driver (an intermediate driver, page 3 to page 4), memory (memory, page 4), a persistency (persistent mode, page 4, In 10-24), a device

driver (a device driver, page 4). APA does teach the term " the parse" for setting its persistency. However, APA teaches the device driver makes itself available to the intermediate. It would have been obvious one of the ordinary skills in the art at time invention was made to apply the teaching of APA because the APA's "the device driver makes itself available to the interinediate/ the persistency status of a driver is selected" would provide a controlling purpose and perform the driver installation procedure.

8. **As to claim 10**, APA teaches an intermediate driver (an intermediate driver, page 3 to page 4), memory (memory, page 4), a persistency (persistent mode, page 4, In 10 24), a device driver (a device driver, page 4).

9. **As to claims 11, 23, 26, 27, 29**, they are apparatus claims of claims 1, 4, 5, 10; they are rejected in the same reasons as claims 1, 4, 5, 10 above.

10. Claims **2, 6-8, 12-22 , 24, 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over of Admitted Prior Art (APA) in view of Bullough (US. Patent 6,282,586 131) in view of Spurlock (US. Patent 5,581,766).

11. **As to claim 2**, APA teaches intermediate (an inten-mediate driver, page 3 to page 4).

12. APA and Bullough do not teach receiving a message, a calling process. However, Spurlock teaches receiving a message, a calling process (the call command sends to the

intermediate video driver to the configuration video, driver, result in executing tile command was stored in the table. This table was used to the identify the device driver. If table include identification for the driver, that mean that the call command come from the inten-mediate driver or the intermediate is present in memory, col 6, In 1-50, col 8, In 1-31).

13. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of APA, Bllough and Spurlock because the Spurlock' receiving a message, a calling process would involve loading an intermediate video driver. The intennediate video driver receives video function calls, and then communicates those commands to select the configuration video driver.

14. **As to claim 6,** APA teaches persistent (persistent, page 4), an intermediate driver (an inten-mediate driver, page3, In 10-23).

15. APA does not teach pre-specified. However, Spurlock teaches configuration specific video device (col 6, In 1-50, col 3, In 44-48).

16. It would have been obvious to apply the teaching of Spurlock to APA in order to make the control of device driver persistency more consistent.

17. **As to claim 7,** APA teaches device drive (the device driver, page 4), persistent (persistent, page 4), an intermediate driver (an intermediate driver, page3, In 10-23).

18. APA and Bullough do not teach a default persistency. However, Spurlock teaches a default persistency (default, the generic video driver is loaded in the same manner as the application specific video driver, col 6, In 1-50).

19. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of Spurlock to APA, Bullough and Spurlock because Spurlock's default would make the control of device driver persistency more consistent.

20. **As to claim 8**, Spurlock teaches automatic control (automatically, col 3, In 40-48/ col 4, In 64-67).

21. **As to claim 12**, it is an apparatus claim of c1aim2; therefore, it is rejected for tile same reason as claim 2 above.

22. **As to claim 13, 14**, Spurlock teaches configuration data, pre-specified the configuration-specific video driver, col 6, In 1-50).

23. **As to claim 15**, Spurlock teaches configuration data comprises instructions to disable automatic (automatically selecting, an appropriate video system for automatically current video system configuration (col 8, In 32-37).

24. **As to claim 16**, Spurlock teaches receiving a message, a calling process (the call command send to the intennediate video driver to the configuration video driver, result forin executing the command was stored in the table. This table was used to the identify the device driver. If table include identification for the driver, that means that the call command come from the intermediate driver or the intermediate is present in memory (col 6, In 1-50, col 8, In 1-31).

**25. As to claims 18, 19,** they are apparatus claims of claims 4, 5; therefore, they are rejected for the same reason as claims 4, 5 above.

26. **As to claims 17, 20-22, 24, 28**, they are apparatus claims of claims 6, 7, 2 and 15, 2, 6; therefore, they are rejected for the same reasons as claims, 7, 2 and 15, 2, 6 above.

27. Claims **3, 25** are rejected under 35 U.S.C. I 03(a) as being unpatentable over of Admitted Prior Art (APA) in view, of Bullough et al (US. 6,282,586 B I) in view of Spurlock (US. Patent 5,581,766) and further in -view of Kim (Method for performing inter-shared memory).

28. **As to claim 3,** APA, Bollough and Spurlock do not teach an event control block. However, Kim teaches an event control block (an event control block, page 1).

29. It would have been obvious to one of the ordinary skill in the art at time invention

was made to combine the teaching of Kim to APA, Bullough, Spurlock and Kim because Kim's event control block would provide information of an event control block, which needs to send or receive a packet tailored to the needs of application.

30. **As to claim 25**, it is an apparatus claim of claim of claim 3; therefore it is rejected for the same reason as claim 3 above.

**Response to the argument**

31. Applicant amendment filed on 12/3/2003 hits been considered but they are not persuasive.

32. In the remarks, applicant argued in substance that (1) " Nor is there any discussion in Bullough of controlling persistency of a particular port driver 206 on the basic where that port driver 206 is present in memory" (2) " Bullough lacks discussion of any procedure for installing or de-Installing the port driver router"

33. Examiner respectfully traversed applicant 's remarks:

34. As to point (1), APA teaches controlling persitency (the persistency status of a driver is selected as part of the driver installation procedure/ the device driver makes itself available to the intermediate driver. A device driver operating in this manner is said to be operating in persistent mode, page 4, In 10- 25).

34. As to point (2), Bullough teaches, "managing the opening and closing of particular port drivers in a manner transparent to the communication applications"( col 3, ln 50-56).

35. **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (703) 305 5312. The examiner can nonmally be reached on 8-- 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Al An can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status ofan application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR of Public PAIP. Status information for unpublished applications is available through Private PAIR only. For rnore information about the PAIR system, see http-/'/pair-direct.uspto.gov. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBQ at 866-217-9197(toll-free).

LeChi Truong

February 17, 2004

MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100